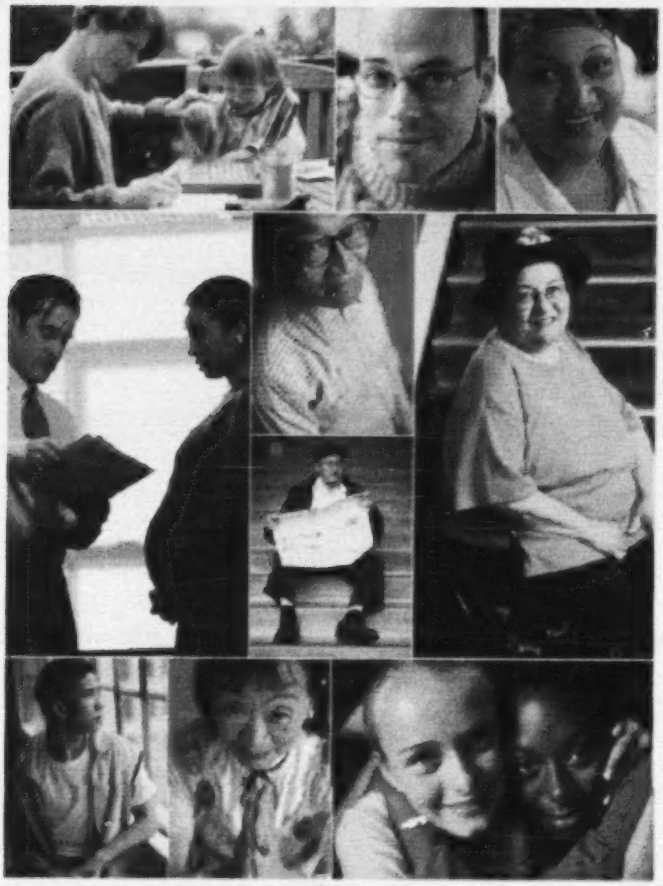
22nd Annual Report
2004-2005

PEI
Human Rights
Commission

Commission
des droits
de la personne
de l'Î.-P.-É.



For further information, visit www.peihumanrights.ca
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Our Commissioners and Staff

Chair:	George S. Kells
Commissioners:	Anne Nicholson, Ann Sherman, Richard W. Montigny, Richard Noonan
Executive Director:	Gregory Howard
Human Rights Officer:	Jacqueline R. O' Keefe
Education Officer:	Mary Joan Campbell
Admin/Intake Officer:	B. Lorraine Buell

Message from the Chairperson

Each year the Commission is required to submit to the Attorney General a report of its "goals and results achieved during the reporting year." This report provides details of how we achieve our primary mandate of advancing the principle of equality through education, complaint investigation and adjudication.

In 1998, Government amended the *Human Rights Act* to give the Commission the functions of a quasi-judicial tribunal. In addition to the traditional roles of advocate, advisor to Government, and overseer of the operations of the Commission, Commissioners are now decision-makers at human rights inquiries. At the time the Commission's legislative mandate changed, the Province increased our staffing complement and our budget. Our resources are increasingly being taken up by the panel hearing process which is, nevertheless, more cost effective than the previous method of ministerial appointments of members of the private bar as Boards of Inquiry. The legislative changes save public money by permitting adjudication by skilled (modestly-paid) human rights commissioners, while Commission staff act as counsel to the Panel and present the case for the Complainant.

Therefore, it was with alarm that we discovered on the evening of the budget announcement that the Commission's grant had been reduced by $75,000.00, representing one-quarter of last year's (already-reduced) grant. Unfortunately, we were not provided with an opportunity for consultation with our Minister or departmental colleagues. We have taken measures to reduce expenditures, including laying off our education officer, but that will not create the savings we are expected to make. If Government holds the Commission to the one-quarter budget reduction, I am confident that before the next fiscal year, Islanders will not have access to human rights processes in Prince Edward Island, because we will not be able to fulfill our mandate to adjudicate complaints. While the Commission is obviously not immune from the realities of the Province's fiscal position, our mandate is set in accordance with the legal requirements of national and international covenants to which the Province is a signatory. We hope that Government will see fit to provide necessary funding in accordance with its obligations.

-George S. Kells, Chair

Financial Information

	2004-05	2003-04
Revenue (Provincial Grant)	$304,000	$318,200
Expenditures	323,516	320,634
Excess Expenditures	(19,516)	(2,434)
Deficit, beginning of year	(2,434)	-
Deficit, end of year	$ (21,950)	$ (2,434)

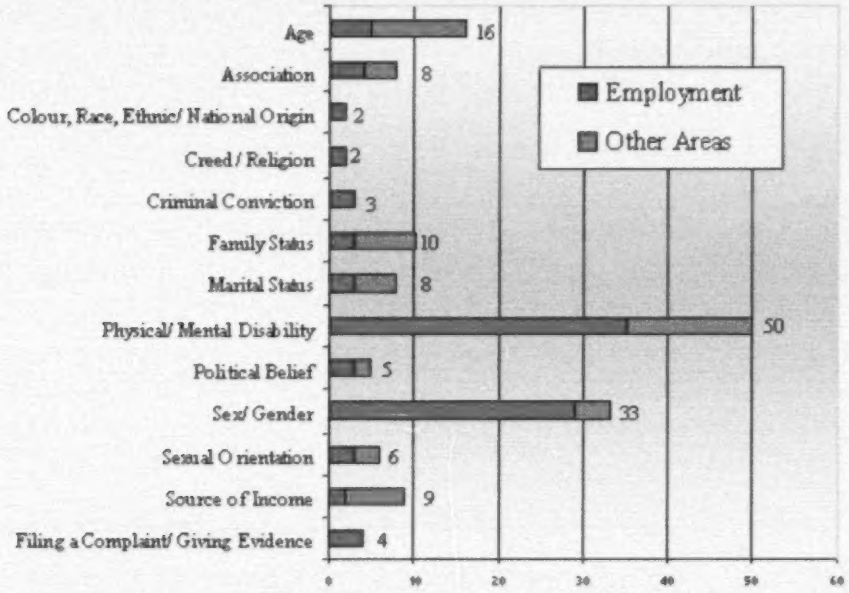
To obtain a copy of audited financial statements, contact the Commission

COMPLAINT STATISTICS

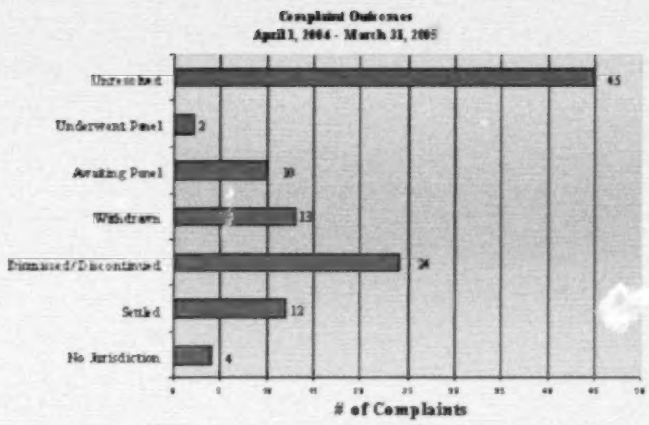
There were a total of 109 active complaints throughout this fiscal year. There were 39 unresolved complaints carried over from previous years, and 69 new complaints. One complaint (*Ayangma v. Eastern School Board*) was referred back to the Commission for a panel hearing after judicial review. Complaints were resolved on average within seven months from the date they were filed. Resolutions include dismissal, settlement, or referral to a hearing.

Many complaints cite more than one ground of discrimination. For example, there were a total of 156 grounds cited in all active complaints, but only 109 complaints. Physical or mental disability, sex and age remain the most frequently listed grounds of discrimination in PEI.

Number of Active Complaints Citing Each Ground of Discrimination



Number of Times Ground was Listed in Active Complaints	Total	Carried Over From 03/04		New Complaints	
		Employment	Other Areas	Employment	Other Areas
Age	16	2	9	3	2
Association	8	1	2	3	2
Colour, Race, Ethnic/National Origin	2	0	0	2	0
Creed/Religion	2	0	0	2	0
Criminal Conviction	3	1	0	2	0
Family Status	10	1	3	2	4
Marital Status	8	1	3	2	2
Physical/Mental Disability	50	9	11	26	4
Political Belief	5	3	1	0	1
Sex/Gender	16	3	1	10	2
Sex/Gender (Harassment)	10	3	0	6	1
Sex/Gender (Pregnancy)	7	3	0	4	0
Sexual Orientation	6	2	1	1	2
Source of Income	9	0	6	2	1
Filing a Complaint/ Giving Evidence	4	1	0	3	0
Totals	156	30	37	68	21



SETTLEMENTS

The following summaries are examples of human rights complaints that were settled during the 2004-2005 fiscal year:

AGE

A young tenant filed a complaint against her landlord alleging she was being evicted because of her age. The landlord agreed to pay her compensation for general damages.

DISABILITY

A health care provider filed a complaint of discrimination against her employer. The woman had been off work and receiving long term disability ("LTD") benefits. When she returned to work, her hours were reduced and this led to her being ineligible for LTD the next time she applied for the benefits. The employer agreed to pay the woman compensation for general damages.

A woman who uses a wheelchair filed a complaint of discrimination against a municipality. The woman wanted to take her vehicle directly to a playing field because she was unable to walk from the designated parking area. A sport group, which was using the municipality's fields, denied access to all vehicles on the road leading directly to the playing field. The woman accepted a proposal that all sport groups that use the fields will take steps to allow full access for those with mobility challenges at future events. In addition, the sport group made a public apology to the woman.

SEX/GENDER (including Sexual Harassment and Pregnancy)

A woman filed a complaint against her employer based on the ground of sex/gender (harassment). The woman alleged that her supervisor had made physical and verbal advances after she advised that they were not welcome. The employer agreed to pay the woman compensation for general damages and to consider a request for a transfer when she returned to work.

A server at a restaurant filed a complaint of discrimination against her employer when her employment was terminated once she revealed that she was pregnant. The employer agreed to pay compensation for general damages and provided the woman with a letter of reference.

SEXUAL ORIENTATION

A woman filed a complaint against her employer because they refused to provide benefits for the employee's same sex partner. The employer agreed to provide medical benefits for the same sex partner.

PANEL HEARINGS

A total of 15 complaints were referred to panel but 3 were settled before any panel hearing took place. One decision came down from last year's hearing (Dowling), one hearing was completed (Dawson) and one hearing is ongoing (Matheson). A total of 10 complaints are now awaiting a panel hearing.

PANEL DECISIONS RENDERED:

Stephen Dowling v. Government of PEI

Hearing Dates: (Took Place Last Fiscal Year) Aug 21, Nov 25,26,27, and Dec 17, 2003
Date of Decision: April 29, 2004

Stephen Dowling alleged that the Gov't of PEI had discriminated against him in employment on the basis of his political belief. The Government alleged that all golf professional positions had been eliminated as part of a reorganization. The Panel did not find Mr. Dowling's termination to be discriminatory, however, it did find that he was denied an opportunity to compete for the position of Golf Shop Supervisor on the basis of political belief and his association with others who held that belief. Mr. Dowling was awarded $5,000.00 for hurt and humiliation. Costs were ordered against the Government in the amount of $9,600.00.

Wayne Dawson v. Southport Home Centre Ltd.

Hearing Dates: June 15 - 16, 2004; Date of Decision: July 16, 2005

Wayne Dawson alleged that the Southport Home Centre had discriminated against him in employment on the basis of disability. While employed by "Southport," Mr. Dawson sought treatment and went on sick leave for a condition called sarcoidosis. After he returned to work, Southport laid him off, citing a seasonal slowdown. Although he was advised that he would be recalled, Southport hired another individual with less experience and fewer qualifications who did not have a disability. The Tribunal found in Mr. Dawson's favour and ordered Southport to provide Mr. Dawson with a positive letter of recommendation, as well as $6,500.00 for lost wages and $3,500 for hurt and humiliation.

ONGOING HEARINGS:

Gael Matheson v. Presbytery of PEI

Hearing Dates this fiscal year: November 23 -24, 2004

Gael Matheson alleged that she was harassed and subsequently dismissed from her position as a minister for a presbyterian church on PEI because of her sex. This complaint was originally dismissed by the Commission because of a failure to meet the one year limitation period. Ms. Matheson appealed the decision and last fiscal year the Court of Appeal ordered the Commission to investigate the complaint. The complaint is still at the panel hearing as of the end of this fiscal year.

LEGAL DECISIONS

Condon v. Gov't PEI and Human Rights Comm. 2004 PESCTD 36 (May 6, 2004)

This was an application by certain casual employees of the government of PEI for a declaration that the limit on remedies prescribed by the *Human Rights Act* was a violation of the *Charter*. The application was allowed. Costs were ordered to follow the result with no order for costs regarding the Commission.

Ayangma v. Eastern School Board 2004 PESCAD 23 (November 12, 2004)

This was an appeal by Mr. Ayangma from the dismissal of his judicial review application. The Appeal Division allowed the appeal and the PEI Human

Rights Commission was ordered to appoint a human rights panel to hear Mr. Ayangma's complaint.

Ayangma v. Attorney-General (PEI) 2004 PESCAD 11 (June 23, 2004)
This was an appeal by Mr. Ayangma from an order prohibiting him from initiating or continuing proceedings against the Attorney General of PEI, except with leave of the court. The Appeal Division stated that this remedy, ordered by the Trial Division, should only be used when all other attempts to control the actions of a litigant had failed. The Court of Appeal determined it was not warranted in this case.

Town of Kensington v. DeWare 2004 PESCTD 40 (May 28, 2004)
This was an application by the Town of Kensington for judicial review of the decision of the PEI Human Rights Panel which found that the Town discriminated against DeWare. The application was allowed in part. The Court found that the Commissioner erred on the issue of discrimination in pay and in failing to consider the concurrent collective bargaining negotiations. However, the Commissioner did not err on the issue of discrimination in failing to hire. Each party bore its own costs.

EDUCATIONAL OUTREACH

The education officer delivered 53 presentations this fiscal year, reaching almost 1500 Islanders. Similar to last year, the largest number of requests came from educational institutions. The education officer began working at the Commission in September 2003. The number of Islanders reached by these sessions almost doubled when comparing the last half of the fiscal years 2003-2004 and 2004-2005, as shown below. In addition, the education officer also re-designed the complaint form and a new guide to the *Human Rights Act* entitled "They're Your Rights to Know." Both publications are being translated and will be available soon on our website.

Other outreach activities included: hosting an event in partnership with the Province's Diversity Advisory at the Atlantic Technology Centre to mark Human Rights Day on December 10th; participating in the annual "Harmony Evening" on March 21st to mark the International Day for the Elimination of Racial Discrimination; hosting a booth at the PEITF Annual Teachers' Convention and the Labour Market Expo; and participating in projects and committees such as PFLAG's "Creating Safer Communities", the Province's Diversity Advisory Committee and the PEI Homophobia Task Force. The Commission has also partnered with other organizations in developing a "Good Citizenship Campaign" to PEI high schools with the goal of increasing awareness of the rights and responsibilities we all have as citizens of PEI.